



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

JAN 03 2014

Tahoe Regional Planning Agency
Attention: Wendy Jepson, Senior Planner
P.O. Box 5310
Stateline, NV 89449

Subject: Draft Environmental Impact Statement for the California Pacific Electric Company 625 and 650 Electrical Line Upgrade Project, Placer and Nevada Counties, CA (CEQ # 20130326)

Dear Ms. Jepson:

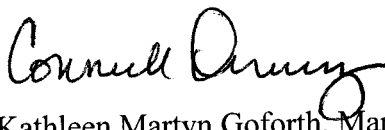
The U.S. Environmental Protection Agency has reviewed the DEIS for the California Pacific Electric Company 625 and 650 Electrical Line Upgrade Project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The EPA supports the proposed action to minimize environmental effects by maximizing the use of the existing transmission line right-of-way, and appropriate siting of infrastructure. That said, we are concerned about potential direct and cumulative impacts to aquatic resources. We have rated the DEIS as *Environmental Concerns – Insufficient Information* (EC-2). Please see the enclosed "Summary of EPA Rating Definitions."

The EPA is concerned about the project's compliance with Section 404 of the Clean Water Act. We recommend the FEIS provide a discussion of Clean Water Act jurisdictional waters that could be filled by project activities, and include descriptions of type and acreage of jurisdictional waters, measures to avoid impacts, and consistency with the *Compensatory Mitigation for Losses of Aquatic Resources; Final Rule*. Our detailed comments are enclosed.

Thank you for the opportunity to review this DEIS. When the FEIS is published, please send one hard copy to us at the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3521, or contact Scott Sysum, the lead reviewer for this project. Scott can be reached at 415-972-3742 or sysum.scott@epa.gov.

Sincerely,

For 

Kathleen Martyn Goforth, Manager
Environmental Review Office (CED-2)

Enclosures: Summary of EPA Rating System
EPA's Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

U.S. ENVIRONMENTAL PROTECTION AGENCY'S DETAILED COMMENTS ON THE CALIFORNIA
PACIFIC ELECTRIC COMPANY 625 AND 650 ELECTRICAL LINE UPGRADE PROJECT, DRAFT
ENVIRONMENTAL IMPACT STATEMENT, PLACER AND NEVADA COUNTIES, CA, JANUARY 3, 2014

Clean Water Act Section 404

Section 404(b)(1) Guidelines

The purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of waters of the United States (WUS, or jurisdictional waters). These goals are achieved, in part, by prohibiting discharges of dredged or fill material that would result in avoidable or significant adverse impacts on the aquatic environment. Pursuant to Section 404 of the CWA, discharge of dredged or fill material to WUS requires a permit issued by the U.S. Army Corps of Engineers. If a permit is required, the EPA will review the project for compliance with the *Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials* (40 CFR 230) (Guidelines), promulgated pursuant to Section 404(b)(1) of the CWA. The burden to demonstrate compliance with the Guidelines rests with the permit applicant.

Recommendation:

Discuss and demonstrate compliance with the Guidelines in the Final Environmental Impact Statement.

Geographic Extent of Waters of the United States

The EPA is concerned about the potential adverse impact to aquatic resources that could result from the proposed project. The DEIS states (p. 4.6-41) that a USACE 404 Permit and 1:1 mitigation may be required for the discharge of dredged or fill material into jurisdictional waters. A formal jurisdictional delineation of the full extent of WUS on the project site has not yet been completed, or verified by the USACE.

Recommendation:

EPA strongly encourages the USFS to include the results of a jurisdictional determination in the FEIS. A jurisdictional determination must be performed by the Corps. Additionally, the FEIS should list the acres of jurisdictional waters impacted by each alternative.

Analysis of Alternatives – 40 CFR 230.10(a)

If an individual permit for fill of jurisdictional waters of the United States is required, in order to comply with the Guidelines, the applicant must comprehensively evaluate a range of alternatives to ensure that the “preferred” alternative is the *Least Environmentally Damaging Practicable Alternative*. Identification of the LEDPA is achieved by performing an alternatives analysis that estimates the direct, indirect, and cumulative impacts to jurisdictional waters resulting from a set of on- and off-site project alternatives. Project alternatives that are not practicable and do not meet the project purpose are eliminated. The LEDPA is the remaining alternative with the fewest impacts to aquatic resources, so long as it does not have other significant adverse environmental consequences. Only when this analysis has been performed can the applicant and the permitting authority be assured that the selected alternative

is the LEDPA (40 CFR 230.10(a)).

EPA was pleased to see the inclusion of applicant proposed measures and additional mitigations that would either avoid or minimize impacts to potential jurisdictional wetlands, however, it cannot be determined whether that alternative is the LEDPA without a Corps' delineation of the geographic extent of jurisdictional waters.

Recommendation:

The FEIS should consider sufficient analyses of the alternatives to identify the LEDPA. These analyses should consider changes to the preferred alternative or application of mitigation measure that could reduce the environmental impacts to the greatest extent possible. The FEIS should also contain sufficient detail to allow for meaningful comparison between alternatives.

Mitigation of Potential Adverse Impacts

Pursuant to the Guidelines, mitigation of project impacts begins with the avoidance and minimization of direct, indirect, and cumulative impacts to the aquatic ecosystem, followed by compensatory measures if a loss of aquatic functions and/or acreage is unavoidable. Compensatory mitigation is, therefore, intended only for unavoidable impacts to jurisdictional waters after the LEDPA has been determined. For this reason, it would be premature to examine in detail any mitigation proposal before compliance with 40 CFR 230.10(a) is established.

Recommendation:

Include in the FEIS a mitigation plan for unavoidable impacts to waters of the United States, as required by Corps and EPA regulations.

Stream Crossings in Riparian Areas

The proposed action would cross 29 streams and impact stream environment zones (p. 4.6-41). We support the applicant proposed measures APM WQ-1, WQ-3, WQ-4, WQ-5, WQ-7, WQ-8, HAZ-1, BIO-1, and BIO-2 which among other things, indicates CALPECO will attempt to avoid impacts by siting poles and other facilities outside of delineated waters of the U.S. (p. 4.6-45); however, the EPA is still concerned with the potential direct impacts, such as clearing vegetation, and indirect impacts, such as sedimentation to riparian areas from road widening and tree removal, that could result at these crossings.

Recommendation:

Maximize, to the extent possible, helicopter mitigation to further reduce impacts at stream crossings as stated in APM BIO-27. Quantify the result of additional impact avoidance in the FEIS.

Public Health and Sensitive Receptor Notification

In light of the projected daily emission, the FEIS should consider a mitigation measure that would inform sensitive receptors of these potential risks in advance of construction. This information should be provided concurrently with advanced notification of construction for noise impacts.

Recommendation:

Consider a mitigation measure that would provide advanced notification to sensitive receptors of the potential effects of PM₁₀ and PM_{2.5}, as well as toxic air contaminants.

Biological Resources

The EPA is pleased to see that APM BIO-19 states that the power poles will be constructed to conform to the practices described in the Suggested Practices for Avian Protection on Power Lines Manual developed by the Avian Power Line Interaction Committee (2006) (p. 3-98). The DEIS states, for the new poles, poles would be buried 7 to 10 feet deep, depending on height. Guy wires may be connected to the poles in areas that need additional stability (p. 3-26). Guy wires can and electrical wires have been known to result in avian injury or mortality. Also guy wires have been known to cause injury to humans, who were not aware of their presence.

Recommendation:

Include, in the FEIS, design practices to be followed for the above ground power lines and guy wires to minimize bird collisions. A useful reference for this is the Avian Power Line Interaction Committee document, *Reducing Avian Collisions with Power Lines: State of the Art in 2012*. Minimize the use of guy wires as much as practicable.

Cumulative Impacts Analysis

The DEIS lists the cumulative projects in Table 4.1-2 (p. 4.1-5). A Notice of Intent/Notice of Preparation was recently published for the proposed Lake Tahoe Passenger Ferry project. The cross-lake ferry service will go from South Lake Tahoe to the Grove street pier in Tahoe City. This project may require the construction of fueling facilities and pier modification. The ferry service would operate year round and on a fixed schedule.

Recommendations:

The FEIS should update the list of reasonably foreseeable projects to include the Tahoe Passenger Ferry Project.

